

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT NOCK,

Plaintiff,

- against -

SPRING ENERGY RRH, LLC, et al,

Defendants.

23-CV-1042 (JHR) (RWL)

DISCOVERY ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves several pending discovery issues raised by the parties at Dkts. 193, 194, 196, 197, and 210.

1. Defendants' QA Policies: Plaintiff's request for a statement from Defendants under perjury is denied. The testimony of Mr. Hasiak quoted by Plaintiff does not (at least as presented in Dkt. 196) refer to a policy that necessarily would have been in writing. In any event, defense counsel already has provided an adequate representation that Defendants conducted a search for any policy and that no document was located. (See Dkt. 208.) Plaintiff needs no more to be able to explain to the jury about efforts made to obtain policy documents in the event that such explanation is relevant and admissible.

2. Ekata Documents: This issue has been withdrawn.

3. Defendants' Financial Documents: Plaintiff has not demonstrated sufficient relevance and need at this juncture for Defendants to produce documents about Defendants' finances. The motion to compel financial documents is denied without prejudice to renew following resolution of summary judgment motions.

4. November 15 Deadline: The deadline does not apply to a motion for adverse inference or rebuttable presumption.

5. TPV.com Distance Reports: Plaintiff's request is denied. Plaintiff's June 10, 2024 letter motion at Dkt. 97 sought an extension of discovery. In a sentence buried in the middle of the three-page letter Plaintiff also requested expansion of discovery to include distance reports for distances greater than 1,000 miles. (Dkt. 97 at 2.) The Court's June 18, 2024 order resolving Plaintiff's letter motion addressed only the deadline for discovery; the order granted an extension in part but maintained the June 21, 2024 deadline for document discovery from Defendants, subject to resolution of any pending disputes about that discovery. (Dkt. 102.) Plaintiff acknowledges that the Court never specifically resolved the request for distance reports in the June 18, 2024 order. (Dkt. 197 at 2.) Yet, Plaintiff never again raised the issue as a pending dispute requiring resolution by the Court. Now, five months later, Plaintiff raises the same issue, although with respect to distance reports for distances over 2,000 miles. (*Id.*) That request comes far too late. Nor does Mr. Hasiak's testimony provide good cause given his equivocation about the distances involved. (See Dkt. 209 at 2 (citing Hasiak testimony).)

6. TIPS Complaints: Plaintiff's request is denied for principally the reasons set forth in Defendants' November 27, 2024 letter (Dkt. 209) at 2-3.

7. Communications with Mr. Hasiak: This application to compel, filed by Defendants, is granted in part. Nock shall produce communications between himself or his attorneys on one hand and Mr. Hasiak on the other up to October 24, 2024. The motion to compel Mr. Hasiak is denied without prejudice as this Court does not have jurisdiction over him.

The Clerk of Court is respectfully directed to terminate the letter motions at Dkts. 193, 194, 196, 197, and 210.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal flourish extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: December 9, 2024
New York, New York

Copies transmitted this date to all counsel of record.